

## **704 KAR 3:365. Chapter 1 complaint procedures.**

RELATES TO: KRS 156.010, 156.031, 156.035, 34 C.F.R. 200.73, 201.47

STATUTORY AUTHORITY: KRS 156.031, 156.035, 156.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.031 requires that administrative regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary and resubmitted to the Legislative Research Commission prior to December 30, 1990; and KRS 156.010, 156.031, and 156.035 provide the state statutory framework for complying with federal funding programs and for receiving and allocating federal education funds; and 34 CFR 200.73 and 34 CFR 201.47 require the Department of Education, when applying for participation in programs for disadvantaged children under Chapter 1 of Public Law 100-297 (the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, 20 USC 2701 to 2901), to show written evidence of complaint procedures particular to disadvantaged and migrant children under Chapter 1. This administrative regulation establishes such complaint procedures.

Section 1. LEA Procedures. (1) Complaints originating at the local level relative to disadvantaged and migrant children under federal Chapter 1 programs shall be entertained by the Department of Education only after such complaints have been filed and heard at the local level in accordance with local education agency policy. Such complaints shall be in written form. Persons making written complaints shall register such complaints with the Director, Division of Compensatory Education, Kentucky Department of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

(2) Written complaints requiring a formal hearing shall be referred to a complaint committee. Members of this committee shall include, as a minimum, the chief state school officer (or designee); Director, Division of Compensatory Education; unit director; and the program consultant serving the affected LEA. The committee shall conduct a hearing within thirty (30) days following the receipt of complaints requesting a formal hearing.

Section 2. Upon receipt of the request for a formal hearing, the Department of Education shall make the necessary on-site investigation of the complaint. Such on-site investigation shall:

- (1) Be made following adequate advance notice to the parties involved;
- (2) Include the gathering of information through interviews and examination of records, considering each allegation of the complaint; and
- (3) Provide appropriate opportunities for the complainant(s) and the LEA to present evidence concerning the allegations.

Section 3. Opportunity shall be provided for the complainant or the complainant's representative, or both, and the LEA involved to submit evidence, including the opportunity to question parties to the dispute or any of their witnesses. All investigations and the solutions of complaints shall be completed within sixty (60) days unless the complainant(s) is notified, in writing, to the contrary. If exceptional circumstances exist with respect to a particular complaint, an extension of the time limit shall be granted by the Department of Education.

Section 4. An involved party may appeal the final Department of Education resolution to the United States Secretary of Education if notice of such appeal is filed with the secretary within thirty (30) days of the receipt of the Department of Education's written decision.

Section 5. If the LEA fails to take corrective action following a final determination of a formal complaint, the Department of Education shall use one (1) or more of the following methods to assure

such action:

- (1) Follow-up visits by Department of Education staff to determine whether the agency is taking the required corrective action;
- (2) Compliance agreement; and
- (3) Withholding of funds.

Section 6. SEA Procedures. Complaints by an outside organization or individual may be filed through a written signed complaint concerning any alleged state (SEA) violation of a federal statute or regulation that applies to Chapter 1 LEA programs. The complaint shall include the facts on which the statement is based. Complainants shall register such complaints with the chief state school officer. The same procedures outlined in Sections 1, 2, 3, and 4 of this administrative regulation shall be followed insofar as practicable.

Section 7. Dissemination, free of charge, of information concerning these procedures shall be made to all interested parties including district and school advisory councils. (16 Ky.R. 288; eff. 10-8-89; Am. 17 Ky.R. 2055; eff. 2-7-91.)